



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

ELP  
Docket No:4858-00  
5 January 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 18 July 1978 for six years at age 17. You were ordered to active duty for a period of 36 months on 1 August 1978. The record reflects that you were advanced to SA (E-2) and served for more than 11 months without incident. However, during the six-month period from June to November 1979 you received four nonjudicial punishments (NJP). Your offenses consisted of three instances of disrespect, two instances of failure to obey a lawful order, two instances of disobedience, absence from your appointed place of duty, insubordination, destruction of personal property, and theft of a .22 caliber pistol. Thereafter, you were formally counseled that if your current trend of misconduct continued, administrative separation procession would be initiated.

The record further reflects three periods of unauthorized absence (UA) from 17 December 1979 to 29 January 1980, 14-28 March 1980, and 21 April to 28 May 1980. However, there is no disciplinary action shown in the record for any of the foregoing UAs.

On 21 August 1980 you received your fifth NJP for two instances

of assault, two instances of breach of the peace, and failure to obey a lawful regulation by possessing numchaks. Thereafter, you were notified that you were being recommended for discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. You were advised of your procedural rights, declined to consult with legal counsel, and waived your right to present your case to an administrative discharge board (ADB). You were reported UA again on 29 September 1980.

On 25 September 1980, the Chief of Naval Personnel directed discharge under other than honorable conditions by reason of misconduct. Your surrendered from UA on 30 September 1980 and were discharged under other than honorable conditions on 9 October 1980.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 19 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of 16 offenses for which you received five NJPs and four periods of UA totalling about 100 days, for which apparently no disciplinary actions was taken. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded that you were guilty of too much misconduct to warrant recharacterization to honorable or under honorable conditions. The Board thus concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director